

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**  
Timothy Wiseman

**(b)** County of Residence of First Listed Plaintiff  
(EXCEPT IN U.S. PLAINTIFF CASES)

**(c)** Attorneys (Firm Name, Address, and Telephone Number)  
Antranig Garibian, Esq. Garibian Law Offices, PC  
1800 JFK Blvd, Suite 300, Philadelphia, PA 19103  
215-326-9179 ag@garibianlaw.com

**DEFENDANTS**  
FBCS, Inc.

County of Residence of First Listed Defendant **Montgomery**  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff

☒ 3 Federal Question (U.S. Government Not a Party)

☐ 2 U.S. Government Defendant

☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

**CONTRACT**  
☐ 110 Insurance  
☐ 120 Marine  
☐ 130 Miller Act  
☐ 140 Negotiable Instrument  
☐ 150 Recovery of Overpayment & Enforcement of Judgment  
☐ 151 Medicare Act  
☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)  
☐ 153 Recovery of Overpayment of Veteran's Benefits  
☐ 160 Stockholders' Suits  
☐ 190 Other Contract  
☐ 195 Contract Product Liability  
☐ 196 Franchise

**TORTS**  
**PERSONAL INJURY**  
☐ 310 Airplane  
☐ 315 Airplane Product Liability  
☐ 320 Assault, Libel & Slander  
☐ 330 Federal Employers' Liability  
☐ 340 Marine  
☐ 345 Marine Product Liability  
☐ 350 Motor Vehicle  
☐ 355 Motor Vehicle Product Liability  
☐ 360 Other Personal Injury  
☐ 362 Personal Injury - Medical Malpractice  
**PERSONAL INJURY**  
☐ 365 Personal Injury - Product Liability  
☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability  
☐ 368 Asbestos Personal Injury Product Liability  
**PERSONAL PROPERTY**  
☐ 370 Other Fraud  
☐ 371 Truth in Lending  
☐ 380 Other Personal Property Damage  
☐ 385 Property Damage Product Liability

**FORFEITURE/PENALTY**  
☐ 625 Drug Related Seizure of Property 21 USC 881  
☐ 690 Other  
**LABOR**  
☐ 710 Fair Labor Standards Act  
☐ 720 Labor/Management Relations  
☐ 740 Railway Labor Act  
☐ 751 Family and Medical Leave Act  
☐ 790 Other Labor Litigation  
☐ 791 Employee Retirement Income Security Act  
**IMMIGRATION**  
☐ 462 Naturalization Application  
☐ 465 Other Immigration Actions

**BANKRUPTCY**  
☐ 422 Appeal 28 USC 158  
☐ 423 Withdrawal 28 USC 157  
**PROPERTY RIGHTS**  
☐ 820 Copyrights  
☐ 830 Patent  
☐ 835 Patent - Abbreviated New Drug Application  
☐ 840 Trademark  
**SOCIAL SECURITY**  
☐ 861 HIA (1395ff)  
☐ 862 Black Lung (923)  
☐ 863 DIWC/DIWW (405(g))  
☐ 864 SSID Title XVI  
☐ 865 RSI (405(g))  
**FEDERAL TAX SUITS**  
☐ 870 Taxes (U.S. Plaintiff or Defendant)  
☐ 871 IRS—Third Party 26 USC 7609

**OTHER STATUTES**  
☐ 375 False Claims Act  
☐ 376 Qui Tam (31 USC 3729(a))  
☐ 400 State Reapportionment  
☐ 410 Antitrust  
☐ 430 Banks and Banking  
☐ 450 Commerce  
☐ 460 Deportation  
☐ 470 Racketeer Influenced and Corrupt Organizations  
☐ 480 Consumer Credit  
☐ 490 Cable/Sat TV  
☐ 850 Securities/Commodities/Exchange  
☒ 890 Other Statutory Actions  
☐ 891 Agricultural Acts  
☐ 893 Environmental Matters  
☐ 895 Freedom of Information Act  
☐ 896 Arbitration  
☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision  
☐ 950 Constitutionality of State Statutes

**V. ORIGIN** (Place an "X" in One Box Only)

☒ 1 Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

☐ 4 Reinstated or Reopened

☐ 5 Transferred from Another District (specify)

☐ 6 Multidistrict Litigation - Transfer

☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
**Fair Debt Collection Practices Act - 15 USC Sect. 1692 et seq.**

Brief description of cause:  
**Improper collection efforts regarding overshadowing and deceptive collection letter**

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

**DEMAND \$**


CHECK YES only if demanded in complaint:  
**JURY DEMAND:** ☐ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY** (See instructions):

JUDGE

DOCKET NUMBER

DATE **9/11/17**

SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

Timothy Wiseman

CIVIL ACTION

v.

FBCS, Inc.

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

9/11/17

**Date**

215-326-9179

**Telephone**


Antranig Garibian, Esq.

**Attorney-at-law**

267-238-3701

**FAX Number**

Timothy Wiseman

**Attorney for**

ag@garibianlaw.com

**E-Mail Address**



FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 200 E. Jack St., Apt. 17, Mabank, TX 75147

Address of Defendant: 330 S. Warminster Rd., Suite 353, Hatboro, PA 19040

Place of Accident, Incident or Transaction: See Defendant address

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases  
(Please specify) Fair Debt Collection Practices

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify) \_\_\_\_\_

### ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, \_\_\_\_\_, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: \_\_\_\_\_

Attorney-at-Law

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 9/11/17

Anty Glin  
Attorney-at-Law

94538  
Attorney I.D.#

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

-----X  
TIMOTHY WISEMAN,

Plaintiff,

COMPLAINT

C.A. No.:

-against-

FBCS, INC.,

Defendant.  
-----X

Plaintiff Timothy Wiseman ("Plaintiff"), by and through his attorneys, Garibian Law Offices, P.C., as and for his Complaint against Defendant FBCS, Inc. ("Defendant"), respectfully sets forth, complains, and alleges, upon information and belief, the following:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, as well as 15 U.S.C. § 1692 *et seq.* The Court also has pendent jurisdiction over the State law claims in this action pursuant to 28 U.S.C. § 1367(a).
2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2), as this is where a substantial part of the events or omissions giving rise to the claim occurred.
3. Plaintiff brings this action for damages arising from the Defendant's violations of 15 U.S.C. § 1692 *et seq.*, commonly known as the Fair Debt Collections Practices Act ("FDCPA").

**PARTIES**

4. Plaintiff is a resident of the State of Texas, County of Kaufman, residing at 200 E. Jack Street, Apt. 17, City of Mabank 75147.
5. Defendant is a "debt collector" as the phrase is defined in 15 U.S.C. § 1692(a)(6) and used in the FDCPA, with an address at 330 S. Warminster Road, Suite 353, Hatboro, PA 19040.
6. Defendant was acting as a debt collector with respect to the collection of the Plaintiff's alleged debt.

**FACTUAL ALLEGATIONS**

7. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein with the same force and effect as if the same were set forth at length herein.
8. On information and belief, on a date better known to Defendant, Defendant began collection activities on an alleged consumer debt from Plaintiff ("Alleged Debt").
9. The Alleged Debt was incurred as a financial obligation that was primarily for personal, family or household purposes and is therefore a "debt" as that term is defined by 15 U.S.C. § 1692a(5).
10. Specifically the Alleged Debt was a medical bill with the original creditor of Athens Emergency Medicine ASC PA, which is defined as a personal obligation and consumer debt under the FDCPA.
11. On or around September 14, 2016, Defendant sent Plaintiff a collection letter which offered Plaintiff several payment options in settlement of the debt. (See collection letter attached hereto as **Exhibit A**).

12. When a debt collector solicits payment from a consumer, it must, within five days of an initial communication, provide the consumer with a written validation notice which must include the following information:

- (1) the amount of the debt;
- (2) the name of the creditor to whom the debt is owed;
- (3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;
- (4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of the judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and
- (5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor. 15 U.S.C. § 1692g(a).

This is commonly known as the "G-Notice".

13. The FDCPA further provides that if the consumer notifies the debt collector in writing within the thirty day period . . . that the debt, or any portion thereof, is disputed . . . the debt collector shall cease collection . . . until the debt collector obtains verification of the debt . . . and a copy of such verification is mailed to the consumer by the debt collector. 15 U.S.C. § 1692g(b).

14. This letter contains the "G-Notice" but it is completely overshadowed by the omission of a material disclosure.



15. The material disclosure omitted from the letter is the fact that the statute of limitations for the debt that Defendant is attempting to collect has expired.
16. Although a collection letter may track the statutory language, “the collector nonetheless violates the Act if it conveys that information in a confusing or contradictory fashion so as to cloud the required message with uncertainty.” Russell v. EQUIFAX A.R.S., 74 F.3d 30, 35 (2d Cir. 1996) (“It is not enough for a debt collection agency simply to include the proper debt validation notice in a mailing to a consumer-- Congress intended that such notice be clearly conveyed.”). Put differently, a notice containing “language that 'overshadows or contradicts' other language informing a consumer of her rights . . . violates the Act.” Russell, 74 F.3d at 34.
17. The omission of this required language overshadows the “G-Notice”, is deceptive, confuses the consumer and and coerces him to not exert his rights under the Fair Debt Collections Practices Act.
18. If Defendant had clearly conveyed to Plaintiff that the statute of limitations on the debt had expired, Plaintiff would have been advised that he had time to dispute the debt rather than believing that he had to accept the settlement offer and make payment immediately.
19. As a result of Defendant's deceptive, misleading and unfair debt collection practices, Plaintiff has been damaged.

**FIRST CAUSE OF ACTION**  
**(Violations of the FDCPA)**

20. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully state herein with the same force and effect as if the same were set forth at length herein.

21. Defendant's debt collection efforts attempted and/or directed towards Plaintiff violate various provisions of the FDCPA, including but not limited to, 15 U.S.C. §§ 1692g, 1692e, 1692e(2), 1692e(5), 1692e(10) and 1692f.

22. As a result of the Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

**PRAYER FOR RELIEF**

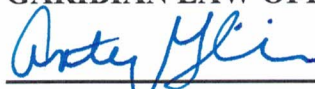
**WHEREFORE**, Plaintiff Timothy Wiseman demands judgment against Defendant FBCS, Inc. as follows:

- a) For actual damages provided and pursuant to 15 U.S.C. § 1692k(a)(1);
- b) For statutory damages provided and pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c) For attorney fees and costs provided and pursuant to 15 U.S.C. § 1692k(a)(3);
- d) For declaratory relief stating that Defendant violated the FDCPA pursuant to 28 U.S.C. § 2201; and
- e) For any such other and further relief, as well as further costs, expenses and disbursements of this action as this Court may deem just and proper.

Dated: September 11, 2017

Respectfully Submitted,

**GARIBIAN LAW OFFICES, P.C.**



Antranig Garibian, Esq.

PA Bar No. 94538

1800 JFK Boulevard, Suite 300

Philadelphia, PA 19103

[ag@garibianlaw.com](mailto:ag@garibianlaw.com)

*Counsel for Plaintiff Timothy Wiseman*



# EXHIBIT A

FBCS Inc

330 S. WARMINSTER RD. SUITE 353

HATBORO, PA 19040

1-866-594-8647

**FROM:**P.O. Box 1116  
Charlotte, NC 28201-1116

31

**PERSONAL & CONFIDENTIAL**

September 14, 2016

Timothy Wiseman  
200 E JACK ST APT 17  
MABANK, TX 75147-8502

Current Creditor: CF MEDICAL, LLC

Original Creditor	Date Of Service	Account #	Balance Due
ATHENS EMERG MEDICINE ASC PA	12/14/2009	11474492	\$339.00

Interested in saving \$237.30, read on ...

Our client, CF MEDICAL, LLC, has authorized us to accept a 70% discount off your \$339.00 outstanding balance to settle the account in full. The complete details of your account are:

We can accept this reduced amount under your preferred option:

1. Pay the full amount of \$101.70 to us in one payment.
2. Pay \$20.34 as a down-payment and the remaining balance of \$81.36, 30 days after your 1st payment is received.
3. You may have an opportunity to split your settlement into 1 payments of \$101.70 each. Call our office for details.
4. Contact one of our agents, who have been specially trained to listen to your circumstances and guide you through the process, there may be other payment options available based on your specific situation. Call us, toll free, at 1-866-594-8647. Agents trained to handle your specific account are available:

Monday through Friday 9:00 am through 7:00 pm

Saturday 9:00 am through 12:30 pm

(All times listed are Eastern Standard Time)

Or visit our website at <http://www.fbc-inc.com> for 24 hour payment options.

This is an attempt to collect a debt and any information obtained will be used for that purpose. This is a communication from a debt collector. Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you the name and address of the original creditor, if different from the current creditor.

▲ Detach Here ▲

▲ Detach Here ▲

Detach and return this portion with your payment. Enter the requested information in the spaces provided below:

**Hours of operation:****Monday****Tuesday****9:00 am - 7:00 pm****9:00 am - 7:00 pm**

## Eastern District of Pennsylvania

Defendant(s)

Civil Action No.

Signature of Clerk or Deputy Clerk



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: